

Chapter 2.200

GOVERNMENT RECORDS ACCESS AND MANAGEMENT

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2.200.010 Purpose.

A. This chapter establish policies, guidelines and procedures for retention, maintenance, and access for the records of the city in accordance with the “Government Records Access Management Act” (“GRAMA”), UTAH CODE ANN. §63-2-101, *et seq.* All city entities and personnel shall comply with the provisions of GRAMA and this ordinance, and shall also comply with other federal and state statutory and regulatory record-keeping requirements.

B. In enacting this chapter, the city council recognizes two fundamental constitutional rights: the right of privacy in relation to personal data gathered by the city; and the public’s right of access to information concerning the conduct of the public’s business.

C. The city council also recognizes a public policy interest in allowing the city government to restrict access to certain records, as specified in this chapter, for the public good.

D. It is the intent of the city council:

1. That all records of the city, which are defined by applicable Utah statutory and case law as public records, shall be made available to citizens within a reasonable time after request and at a reasonable cost as set forth in this chapter;

2. To establish and maintain an active, continuing program for the economical and efficient management of the city’s records as provided in this chapter;

3. To provide guidelines for both disclosure and restrictions on access to government records, which are based on the equitable weighing of the pertinent interests and which are consistent with nationwide standards of information practices; and

4. Favor public access when, in the application of this chapter, countervailing interests are of equal weight.

E. UTAH CODE ANN. §§ 63-2-201; 63-2-202; 63-2-205; 63-2-206; 63-2-601; 63-2-

602; 63-2-905; and 63-2-907 are hereby adopted by reference and are made part of this chapter as if fully set forth herein.

2.200.020 Definitions.

In general, the definitions used in GRAMA may apply in the interpretation and application of the chapter, except as they may be modified herein to provide further definition and understanding in the application of this chapter. As used in this ordinance, the following definitions shall be applicable.

A. “*GRAMA*” shall refer to the Government Records Access and Management Act, UTAH CODE ANN. §63-2-101, *et seq.*

B. “*Department head*” shall refer to the official responsible for the management and supervision of any office or department of the city having custody of the record requested.

C. “*Computer software program*” means the series of instructions or statements that permit the functioning of a computer system in a manner designed to provide storage, retrieval, and manipulation of data from the computer system, and any associated documentation, manuals, or other source material explaining how to operate the software program. “*Software*” does not include the original data or record which is manipulated by the software.

D. “*Controlled*” records shall be those defined and classified as controlled under the provisions of this ordinance and in accordance with the provisions of GRAMA.

E. “*Dispose*” means to destroy, or render irretrievable or illegal, a record or the information contained in it by any physical, electronic, or other means, including unauthorized deletion or erasure of electronically recorded audio, visual, non-written formats, data processing, or other records.

F. “*Non-public*” records shall refer to

those records defined and classified as private, controlled, or protected under the provisions of this ordinance and of GRAMA.

G. “*Private*” records shall refer to those records classified as private under the provisions of this ordinance and of GRAMA.

H. “*Protected*” records shall refer to those records classified as protected under the provisions of this ordinance and GRAMA.

I. “*Public*” records shall refer to those records which have not been classified as non-public in accordance with the provisions of this ordinance and GRAMA.

J.

1. “*Record*” means all books, letters, documents, papers, maps, plans, photographs, films, cards, tapes, recordings, or other documentary materials and electronic data regardless of physical form or characteristics, prepared, owned, used, received, or retained by the city where all the information in the original is reproducible by some mechanical, electronic, photographic, or other means.

2. “*Record*” does not mean:

(a) Temporary drafts or similar materials prepared for the originator’s personal use or prepared by the originator for the personal use of a person for whom they are working;

(b) Materials that are legally owned by an individual in their private capacity;

(c) Materials to which access is limited by the laws of copyright or patent;

(d) Junk mail or commercial publications received by the city or by an officer or employee of the city;

(e) Personal notes or daily calendars prepared by any city employee for personal use or the personal use of a supervisor or such notes, calendars, or internal memoranda prepared for the use of an officer or agency acting in a quasi-judicial or deliberative process or pursuant to

matters discussed in a meeting closed pursuant to the Utah Open Meetings Act; or

(f) Proprietary computer software programs as defined in subsection C above that are developed or purchased by or for the city for its own use.

2.200.030 Right to inspect and receive copies of public records.

A. Every person has the right to see, review, examine and take a copy of all public records of the city during normal working hours upon payment of the lawful fees and pursuant to the provisions of this chapter. All records of the city are public unless otherwise expressly provided by GRAMA. “*Public record*” does not include:

1. Records classified as “private,” “controlled,” or “protected” in accordance with GRAMA and the policies and procedures established in this chapter; and

2. Records with restricted access pursuant to court rule, state statute, federal statute, or federal regulation, including records that access is governed or restricted as a condition of participation in a state or federal program or for receiving state or federal funds.

B. The city has no obligation to create a record or record series in response to a request from a member of the public, if the record requested is not otherwise regularly maintained or kept.

C. When a record is temporarily held by a custodial city agency, pursuant to that custodial agency’s statutory or ordinance functions, such as investigation, litigation or audit, the record shall not be considered a record of the custodial agency for the purposes of this chapter. The record shall be considered a record of the agency or agencies that usually keeps or maintains that record and any requests for access to such records shall be directed to that agency or agencies, rather than the custodial agency.

D. Reasonable accommodations

regarding access to city records shall be provided to persons with disabilities in accordance with city policy and applicable law.

2.200.040 Subpoenas—Discovery requests.

Subpoenas and other methods of discovery under the state or federal statutes or rules of civil, criminal, administrative or legislative procedure are not written requests under this chapter. Compliance with civil, criminal, administrative and legislative discovery shall be governed by the applicable statutes and rules of procedure, not by this chapter.

2.200.050 Access requests.

All record requests shall be directed to the city recorder’s office. Under circumstances in which the city does not or is not able to immediately respond to a records request, the requester shall complete and present to the city recorder’s office a written request on forms provided by the city. The request shall include the requester’s name and signature, mailing address, daytime telephone number, the date of the request, and a description of the record requested. The department or office shall record the date and time that it receives the request on the written request form, and all time frames proved under this chapter shall commence from that time and date. Requesters of non-public information shall adequately identify themselves and their status prior to receiving access to non-public records.

2.200.060 Response to request.

A. The city may respond to a request for a record by approving the request and providing the records, denying the request, or such other appropriate response as may be established by policies and procedures.

B. The city shall respond to a written

request for a public record within ten business days after receiving a written request, or five business days after receiving a written request if the requester demonstrates that an expedited response to the record request benefits the public rather than the person, by:

1. Approving the request and providing the record;
2. Denying the request;
3. Notifying the requester that it does not maintain the record and providing, if known, the name and address of the governmental entity that does maintain the record; or
4. Notifying the requester that because of extraordinary circumstances it cannot immediately approve or deny the request

C. Extraordinary circumstances shall justify the city's failure to respond to a written request for a public record within ten business days and shall extend the time for response thereto that time reasonably necessary to respond to the request, as determined by the city. Extraordinary circumstances shall include, but not limited to the following:

1. The city, another agency, or some other governmental entity is currently and actively using the record requested;
2. The record requested is for either a voluminous quantity of records or requires the city to review a large number of records or perform extensive research to locate the materials requested;
3. The city is currently processing either a large number of records requests or is subject to extraordinary seasonal work loads in the processing of other work;
4. The request involves an analysis of legal issues to determine the proper responses to the request;
5. The request involves extensive editing to separate public data in a record from that which is not public; or
6. Providing the information request

requires computer programming or other format manipulation.

D. When a record request cannot be responded to within the time frame provided herein, the city shall give the requester an estimate of the time required to respond to the request.

E. The failure or inability of the city to respond to a request for a record within the time frames set forth herein, or the agency's denial of such a request, shall give the requester the right to appeal as provided in section 2.200.250.

2.200.070 Fees.

A. City offices and departments releasing copies of public records in accordance with this chapter, shall charge a reasonable fee to cover the city's actual cost of duplicating a record, compiling a record in a form other than that maintained by the city, postage, the cost of providing a certified copy of a record, or any other fee reasonably related to the city's cost of fulfilling the request for the record consistent with this chapter.

B. A record may be provided without payment of the costs of duplication, if the duplication cost will not exceed \$15 and the city determines that:

1. The individual requesting the record is a member of the media and releasing the record primarily benefits the public rather than a person;
2. The individual requesting the record is the subject of the record or is a person authorized under section 2.200.100(B) to have access to the subject's record; or
3. The record is to be released to another governmental entity for a public purpose.

C. The city may require payment of past fees and future estimated fees before beginning to process a request if fees are expected to exceed \$50, or if the requester has not paid fees from previous requests.

D. Standard fees to be charged under this section shall be adopted pursuant to the city's fee ordinance relating to fees, a consolidated fee schedule, or any similar or successor provision.

E. Records provided by the city to members of the public for purposes of information, education or the solicitation of public opinion shall not be subject to the fees authorized in this section.

2.200.080 Classification of records.

A. All city records and record series, of any format, shall be evaluated, designated, classified and scheduled for retention according to the provisions of this chapter. All designations of record series shall be reported to the state archives.

B. The city may classify a particular record, record series, or information within a record at any time, but is not required to classify a particular record, record series, or information until access to the record is requested. The city may redesignate a record series or reclassify a record or record series, or information within a record at any time.

C. If more than one provision of GRAMA and this chapter could govern the classification of a record, the city shall classify the record by considering the nature of the interests intended to be protected and the specificity of the competing provisions.

D. No provision of this chapter shall require the city to classify a record or record series as private, controlled or protected.

2.200.090 Private records.

A. Private records shall be those city records classified as "private" pursuant to GRAMA, and as classified and defined in rules and regulations established pursuant to this chapter.

B. Private records shall be made available to the following persons:

1. The subject of the record;
2. The parent or legal guardian of a

minor who is the subject of a record;

3. The legal guardian of an incapacitated individual who is the subject of a record;

4. Any other individual who has a power of attorney from the subject of the record, or submits a notarized release from the subject of the record or his legal representative dated no more than 90 days before the date the request is made; or

5. Any person possessed of and serving a legislative subpoena or a court order issued by a court of competent jurisdiction.

2.200.100 Controlled records.

A. Controlled records shall be those city records classified as "controlled" pursuant to GRAMA, and as classified and defined in rules and regulations established pursuant to this chapter.

B. Controlled records shall be made available to:

1. A physician, psychologist, certified social worker, insurance provider or agent, or a government public health agency who submits a notarized release from the subject of the record that is dated no more than 90 days prior to the date the request is made and a signed acknowledgment of the terms of disclosure;

2. Or any person presenting a legislative subpoena or a court order signed by a judge of competent jurisdiction.

C. A person who receives a record from the city in accordance with subsection (B)(1) above may not disclose controlled information from that record to any person, including the subject of the record.

2.200.110 Protected records.

A. Protected records shall be those city records classified as "protected" pursuant to GRAMA, and as classified and defined in the rules and regulations established pursuant to this chapter.

B. Protected records shall be made

available to:

1. The person who submitted the record to the city;
2. A person who has power of attorney from all persons, governmental entities, or political subdivisions whose interest were sought to be protected by the classification of the record;
3. A person who submits a notarized release from all persons, governmental entities, or political subdivisions whose interests were sought to be protected by the classification of the record or from their legal representatives dated no more than 90 days prior to the date the request is made; and
4. Any person presenting a legislative subpoena or a court order regarding the release of the information and signed by a judge of competent jurisdiction.

2.200.120 Disclosure of private or controlled records for research purposes.

The city may disclose or authorize disclosure of private or controlled records for research purposes in accordance with UTAH CODE ANN. §63-2-202(8).

2.200.130 Sharing records with governmental entities.

The city may disclose a private, controlled, or protected record to another governmental entity, political subdivision, another state, the United States or a foreign government only as provided by UTAH CODE ANN. §63-2-206.

2.200.140 Other permitted disclosure.

The city otherwise may at its discretion disclose records that are private only to the extent that GRAMA authorizes such disclosure.

2.200.150 Segregation of records.

- A. Notwithstanding any other provision

in this ordinance, if the city receives a request for access to a record that contains both information that the requester is entitled to inspect and information that the requester is not entitled to inspect in this chapter, and, if the information the requester is entitled to inspect is intelligible, the city:

1. Shall allow access to information in the record that the requester is entitled to inspect under this chapter; and
2. May deny access to information in the record if the information is exempt from disclosure to the requester, issuing a notice of denial as provided in this chapter.

B. Multiple subjects. If there is more than one subject of a private, controlled, protected or non-public record, the portion of the record that pertains to another subject shall be segregated from the portion that the requester is entitled to inspect.

2.200.160 Business confidentiality claims.

A. Any person who provides to the city a record that the person believes should be protected under UTAH CODE ANN. §63-2-304(1) or (2) shall provide with the record a written claim of business confidentiality and a concise statement of reasons supporting the claim of business confidentiality.

B. The claimant shall be notified by the city if a record subject to a claim under subsection (A) above is classified public or if the city determines that the record should be released under section 2.200.140.

C. Except as otherwise provided by court order or applicable law, the city may not disclose records claimed to be protected under subsection (A) above until the period in which to bring an appeal expires or the end of the appeals process, including judicial appeal unless the claimant, after notice, has waived the claim by not appealing or intervening before the appeals body.

2.200.170 Records management.

A. For those records not covered under the Utah Municipal General Records Retention Schedule developed by the Utah State Archives, the city's records committee shall develop a retention schedule as approved by the state records committee.

B. There is hereby created the city's records committee, hereinafter referred to as the "*committee*," to be chaired by the city recorder. Members of the committee shall include the records officer of each city department or office and a representative from the city council. The records committee shall meet periodically as needed, as determined by the city recorder. The city attorney shall provide assistance to the committee as needed. The minutes and other records of the records committee shall be maintained and staff provided by the city recorder's office.

C. The records committee may:

1. Develop standards for the management and retention of the records of the city;

2. Develop policies and procedures for the classification and designation of the records of the city as public, private, controlled, or protected in accordance with this chapter and GRAMA;

3. Develop access policies and procedures to govern and implement the provisions of GRAMA and this chapter; and

4. Approve classifications or designations applied to record series maintained by the city and provide a statement explaining the purposes for which a record series designated private or controlled are collected and used by the city.

D. Records maintenance procedures shall be developed to ensure that due care is taken to maintain and preserve city records safely and accurately over the long term. The committee shall be responsible for monitoring the application and use of

technical processes in the creation, duplication, and disposal of city records. The committee shall monitor compliance with required standards of quality, permanence, and admissibility pertaining to the creation, use, and maintenance of records. Policies and regulations regarding types and formats of papers, inks, electronic media, and other records and information storage media, materials, equipment, procedures and techniques shall be developed.

E. The policies and procedures developed by the committee shall be promulgated into written rules and regulations to be issued and approved by the mayor. The internal rules or policies of any department or agency of the city regarding records management and access shall be consistent with the rules and regulations adopted by the mayor. Copies of any rule or policy promulgated under this chapter shall be forwarded by the city recorder to the Utah State Divisions of Archives within thirty (30) days after its effective date.

F. The city recorder shall provide to the state archives, all retention schedules, and all designations and classifications applied to record series maintained by the city, including a statement explaining the purposes for which record series designated private or controlled are collected and used by the city.

2.200.180 Limitation on disposal of records.

A. Any city record which has been requested in accordance with this ordinance and GRAMA, that is disposable by approved retention schedule, may not be disposed of until the request is granted and fulfilled, or sixty days (60) after the request is denied if no appeals are filed, or sixty days (60) after all appeals are completed, pursuant to section 2.200.250.

B. No city record, disposable by

approved retention schedule, which is subject to pending litigation or audit shall be disposed of until the litigation or audit has been completed or resolved.

2.200.190 Records ownership, possession and transfer—Right of replevin.

A. All records of the city shall remain the property of the city unless federal or state legal authority provides otherwise. Property rights to city records may not be permanently transferred from the city to any private individual or entity, including those legally disposable obsolete city records.

B. Custodians of any city records shall, at the expiration of their terms of office, appointment or employment, deliver custody and control of all records kept or received by them to their successors, supervisors, or to the city recorder.

C. All records which are in the possession of any city agency shall, upon termination of activities of such agency, be transferred to any successor agency or to the city recorder, provided that such transfer is consistent with the formal provisions of such termination.

D. The city attorney or a person authorized by the city attorney or the mayor may replevin any city records that are not adequately safeguarded.

2.200.200 Records format—Right of access.

A. The city retains and reserves to itself the right to use any type of non-verbal or non-written formats for the storage, retention and retrieval of city records, including but not limited to audio tapes, video tapes, micro-forms, and any type of computer, data processing, imaging, or electronic information storage or processing equipment or systems, which are not prohibited by state statute.

B. Members of the public shall have the

right to have access to records, in accordance with GRAMA and this chapter, contained in non-written formats or data processing systems. The method of access to such public records shall be as determined appropriate by the head of the department or office maintaining the records, considering all of the circumstances. Access may include but not limited to the following:

1. By using a computer terminal or other viewing or listening device to retrieve data directly from the terminal screen or device; provided, however, that due regard shall be exercised to ensure that any non-public records will not be accessed, retrieved or displayed on the device and that records are not erased or damaged; or

2. By providing paper or “hard” copies of records printouts or by providing magnetic tapes, disks, or other means of electronic storage containing the non-written format or data processing system records.

2.200.210 Intellectual property.

A. Intellectual property or computer software programs are not considered a record. Such property and programs shall not be subject to disclosure under this chapter, including copyrighted software and other copyrighted materials which have been purchased by or licensed to the city, and software and other materials or property which have been copyrighted by the city.

B. Nothing in this chapter shall be construed to limit or impair the rights or protection granted to the city under federal copyrighted or patent law as a result of its ownership of an intellectual property right.

2.200.220 Rights of individuals on whom data is maintained—Disclosure of context.

A. The city shall file with the state archivist a statement explaining the purposes for which record series designated private or controlled are collected and used by the city.

That statement is a public record.

B. Upon request, the city shall explain to an individual:

1. The reasons the individual is asked to furnish to the governmental entity information that could be classified private or controlled;

2. The intended uses of the information; and

3. The consequences for refusing to provide the information.

C. The city may not use private or controlled records for purposes other than those given in the statement filed with the state archivist or for purposes other than those for which another governmental entity could use the record under UTAH CODE ANN. §63-2-206.

D. When providing private records under section 2.200.080, the city shall, upon request, disclose the context in which the record is used.

2.200.230 Amendments and changes to records.

A. Records of the city may be amended or corrected as needed. Requests for amendments, corrections, or other changes shall be made in writing to the head of the department or office having custody of the records and setting forth, with specificity, the amendment or correction requested. When an amendment or correction of a government record is made, both the original record and the amended or corrected record shall be retained, unless provided otherwise by policies and procedures adopted under the provisions of this chapter. A refusal to amend a record may be appealed in the same manner as provided in section 2.200.250.

B. This section does not apply to records relating to title to real or personal property, medical records, judicial case files or any other record that the city determines must be maintained in its original form to

protect the public interest and to preserve the integrity of the record system.

2.200.240 Denials.

A. If the city denies a records request, in whole or in part, it shall provide a notice of denial to the requester either in person or by sending the notice to the requester's address as provided.

B. The notice of denial shall contain the following information:

1. A description of the record or portions of the record to which access was denied, provided that the description does not disclose private, controlled, or protected information or information exempt from disclosure.

2. Citations to the provision of this chapter, court rule or order, GRAMA, or another state statute, federal statute, or federal regulation that exempts the record or portions of the record from disclosure, provided that the citations do not disclose private, controlled, or protected information or information exempt from disclosure.

3. A statement that the requester has the right to appeal the denial;

4. The time limits for filing an appeal, and the address where an appeal is filed.

2.200.250 Appeals.

Persons aggrieved by the city's classification or designation of a record, or of an access decision or by a response to a record request may appeal the determination to the city manager as provided in UTAH CODE ANN. §63-2-401.

2.200.260 Confidential treatment of records for which no exemption applies.

Notwithstanding the provisions regarding classifications and right of access contained in this chapter, the city reserves the right to request a court to restrict access to a record under UTAH CODE ANN. §63-2-

405.

misdemeanor.

**2.200.270 Criminal penalties—Liability
for damages.**

A. A city employee or other person who has lawful access to any private, controlled, or protected record under this chapter, and who intentionally discloses or provides a copy of a private, controlled or protected record to any person knowing that such disclosure is prohibited, is guilty of a class B misdemeanor. It is a defense under this subsection that:

1. The person released the information in the reasonable belief that the disclosure of the information was necessary to expose a violation of law involving government corruption, abuse of office, or misappropriation of public funds or property; or

2. The record could have lawfully been released to the recipient if it had been properly classified.

B. A person who by false pretenses, bribery, or theft, gains access to or obtains a copy of any private, controlled, or protected record to which they are not legally entitled is guilty of a class B misdemeanor. No person shall be guilty under this subsection who receives the record, information, or copy after the fact and without prior knowledge of or participation in the false pretenses, bribery, or theft.

C. In accordance with GRAMA, neither the city nor any of its agencies, officers, or employees shall be liable for damages resulting from the release of a record where the requester presented evidence of authority to obtain the record, even if it may be subsequently determined that the requester had no such authority.

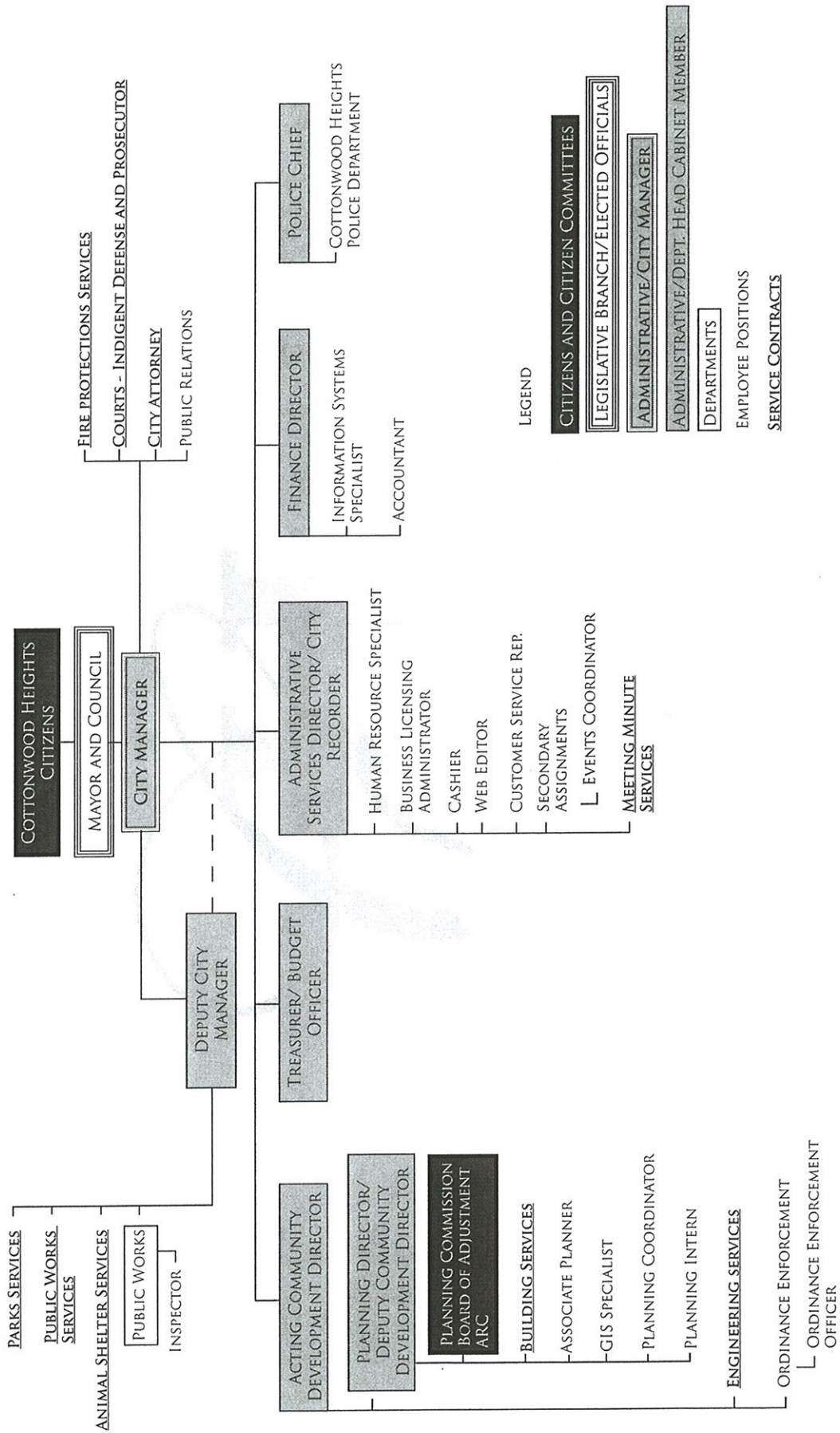
D. A city employee who intentionally refuses to release a record the disclosure of which the employee knows is required by law or by final unappealed order of the city or a court is guilty of a class B

Chart 2.210
ORGANIZATIONAL CHART

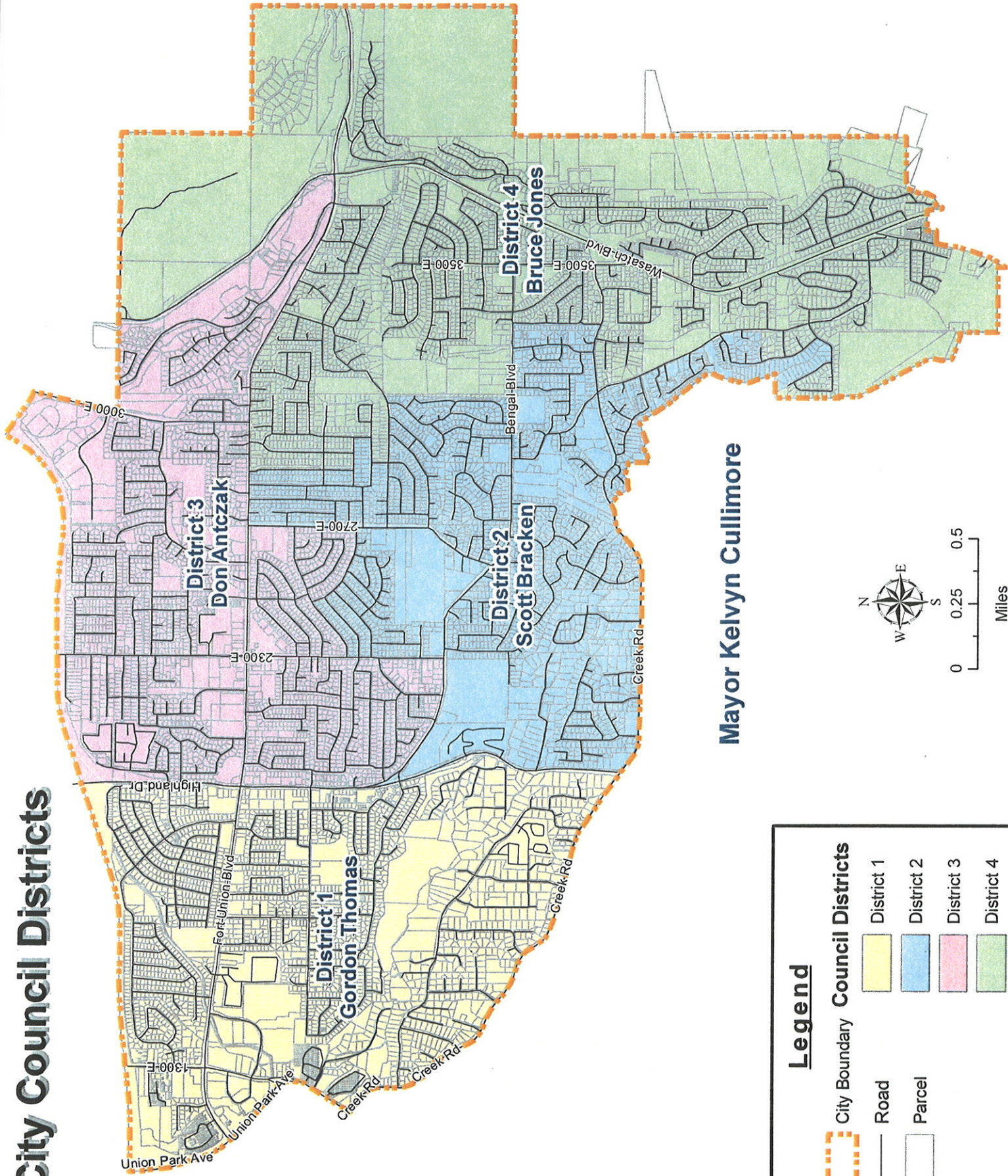
Chart 2.220
COUNCIL DISTRICTS

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Cottonwood Heights Organizational Chart 2008



City Council Districts



Mayor Kelvyn Cullimore

Legend

City Boundary Council Districts	
	District 1
	District 2
	District 3
	District 4

